

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

RICHARD R. WAKELEY, JR.

Plaintiff,

V.

COUNSELOR KEVIN LIGHTBODY,

Defendant.

NO: CV-11-5062-JPH

ORDER DENYING MOTION FOR
EXTENSION OF TIME, ADOPTING
REPORT AND RECOMMENDATION
AND DENYING MOTION FOR
EXTENSION OF TIME TO FILE A
MOTION FOR RECONSIDERATION

BEFORE THE COURT is Plaintiff's second Motion for Extension of Time, ECF No. 32, to file Objections to the Report and Recommendation, issued on February 23, 2012, to deny his Motion for Extension of Time to File a Motion for Reconsideration. ECF No. 26. Plaintiff asks for a further extension of time, until May 15, 2012, to "complete [his] legal pleadings."

ORDER ADOPTING REPORT AND RECOMMENDATION -- 1

1 In a separate letter, ECF No. 27, Mr. Wakeley states he needs additional
2 time in case number CV-11-5062-JPH, to obtain financial information requested
3 by the court. Mr. Wakeley is mistaken. No request for financial information has
4 been made by the Court in this action. Indeed, the only matter pending before this
5 Court is the Report and Recommendation to deny Mr. Wakeley's request for
6 additional time to file a Motion for Reconsideration of the Order dismissing this
7 action.

8 More than ten months ago, on June 21, 2011, the court instructed Mr.
9 Wakeley to amend or voluntarily dismiss his complaint within sixty (60) days.
10 ECF No. 11. Five months later, after having granted Plaintiff generous extensions
11 of time, the Court recommended dismissal of the complaint. ECF No. 17.
12 Specifically, Plaintiff's allegations regarding photocopies and verbal harassment
13 failed to state constitutional claims. *See Lewis v. Casey*, 518 U.S. 343, 351-52
14 (1996); *Oltarzewski v. Ruggiero*, 830 F.2d 136, 139 (9th Cir. 1987).

15 Thereafter, despite further extensions of time, Mr. Wakeley failed to file
16 Objections. Consequently, on January 13, 2012, the undersigned judicial officer
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1 dismissed the complaint for failure to state a claim upon which relief may be
2 granted and entered Judgment. ECF Nos. 23 and 24.

3 Magistrate Judge Hutton filed a Report and Recommendation on February
4 23, 2012 recommending Mr. Wakeley's letter, which was construed as a Motion for
5 Extension of Time to File a Motion for Reconsideration, be denied. ECF No. 26.
6 Mr. Wakeley did not timely file Objections. He was then granted until April 16,
7 2012, to do so, ECF No. 30, but did not meet that extended deadline either.

8 On February 23, 2012, Plaintiff also filed a letter addressed to the
9 undersigned judicial officer, which included pictures of Mr. Wakeley's foot and
10 references to his medical circumstances. ECF No. 27. The Court notes any current
11 claims regarding medical treatment at the Stafford Creek Correction Center are
12 unrelated to the claims contained in the original complaint regarding photocopies
13 and alleged verbal abuse at the Washington State Penitentiary.

14 In his letter dated April 12, 2012, Plaintiff states he believes that he can
15 show "intentional acts of conspiracy and neglect on the part of Mr. Kevin
16 Lightbody." The time for amending his complaint, however, expired more than
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1 five months ago. In any event, a claim of negligence is not actionable under
2 section 1983. *Davidson v. Cannon*, 474 U.S. 344, 347-48 (1986).

3 The Court finds it would not serve the interests of justice to continue this
4 action any further. Mr. Wakeley has had more than sufficient opportunities to file
5 Objections. He has not done so. He fails to even allude to how he might object to
6 the Report and Recommendation to Deny his Motion for an Extension of time to
7 File a Motion for Reconsideration. Therefore, **IT IS ORDERED** Plaintiff's
8 Motion for Extension of Time, ECF No. 32 is **DENIED**, the Report and
9 Recommendation, ECF No. 26, is **ADOPTED in its entirety**, and the Motion for
10 Extension of Time to File Motion for Reconsideration is **DENIED**.

11 **IT IS SO ORDERED.** The District Court Executive is directed to enter this
12 Order, forward a copy to Plaintiff at his last known address and close the file.

13 **DATED** this 26th day of April 2012.

14
15 s/ Rosanna Malouf Peterson
16 ROSANNA MALOUF PETERSON
17 Chief United States District Court Judge
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